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10/714,110

11/14/2003

Clemens Jung

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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

EL ARINI, ZEINAB

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/714,110
Filing Date: November 14, 2003
Appellant(s): JUNG ET AL.

Michael F. Kelly
WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
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For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/07/07 appealing from the Office action mailed 7/16/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

The Board decision on Appeal No. 2006-3025 on March 29, 2007.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,888,269	Bashark	06-1975
5,586,567	Smith et al.	12-1996
3,114,253	Morey et al.	12-1963

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

The nonstatutory double patenting rejection stated in paper No. 20070711 has been withdrawn in view of appellant's remarks.

The rejection under 35 U.S.C 103 (a) over Bashark in combination with Smith et al. stated in paper No. 20070711 has been withdrawn in view of appellants' remarks.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 8-10, and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bashark (3,888,269) in combination with Smith et al. (5,586,567) and Morey et al (3,114,253).

Bashark discloses control system for dishwasher. The reference discloses that in Patent No. 3,279,481, a turbidity sensor is used to determine the turbidity of the rinse

water. See col. 1, lines 60-67. The reference discloses sensing the turbidity of the dish treating liquid after the pump has been operating for a selecting period of time such as after one minute of the first rinse period. See col. 3, lines 3-20, and lines 49-68, and col. 4, lines 1-7, 36-46.

Bashark does not teach the steps and determining the solubility of the soil on the dishes as claimed.

Smith et al. teach a turbidity sensing mechanism for a dishwasher. The reference also discloses the turbidity is a measure of the suspended and/or soluble soils in the fluid. See col. 3, lines 51-52.

Morey et al. disclose that the rate of removal of soil from fabrics in a washing machine has a direct relationship to the rate of change of turbidity of the washing solution, and to utilize this knowledge to cause the washing operation to be terminated when the rate of change of turbidity approaches zero (See col. 11, lines 15-21), the reference also discloses that it will further be recognized that the washing of other articles may be made dependent upon the rate of change of turbidity of the washing solution (col. 11, lines 30-50, col. 9, line 64-col. 10, line 10).

It would have been obvious for one skilled in the art to use the process taught by Bashark to obtain the claimed process, because the steps of measuring the turbidity as taught by Bashark will include determining the solubility of the soil as claimed, see Bashark, col. 1, lines 54-59, or Morey et al. (See col. 11, lines 15-21, lines 30-50, and col. 9, line 64-col. 10, line 10). This is also because the degree of turbidity depends on the amount of soil been found on the dishes. See Bashark, col. 3, lines 3-20. The

turbidity which is a measure of the soluble soil in the liquid depend on the temperature, the time or the duration of the cleaning step, the volume of water, and the quantity of cleaning agent as claimed.

(10) Response to Argument

Appellants argue that nothing in the combination of Bashark or Smith and Morey et al remotely suggests determining the solubility of soil on dishes to be cleaned. Appellants' argument is unpersuasive, because Smith et al. disclose the turbidity is a measure of the suspended and/or soluble soils in the fluid. See col. 3, lines 51-52, and Bashark discloses that the degree of turbidity depends on the amount of soil been found on the dishes. See Bashark, col. 3, lines 3-20. Appellants' argument with respect to measuring turbidity will not include determining the solubility of the soil, and there is no correlation between turbidity and solubility that can provide a definitive quantification of solubility strictly on the basis of turbidity, is unpersuasive, because Morey et al. disclose that the rate of removal of soil from fabrics in a washing machine has a direct relationship to the rate of change of turbidity of the washing solution, and to utilize this knowledge to cause the washing operation to be terminated when the rate of change of turbidity approaches zero (See col. 11, lines 15-21), the reference also discloses that it will further be recognized that the washing of other articles may be made dependent upon the rate of change of turbidity of the washing solution (col. 11, lines 30-50, col. 9, line 64-col. 10, line 10). This is also because the degree of turbidity depends on the amount of soil or soluble soil in the liquid. One skilled in the art would measure the solubility of the soil by calculating the amount of soil and the turbidity of the liquid.

Bashark also discloses modifying wash and rinse cycles based upon the amount of turbidity which is a measure of soluble soil in the liquid. Appellants' arguments with respect to the limitations of claims 2, 8-10, and 12-20 are unpersuasive, because the turbidity, which is a measure of soluble soil in the liquid, depends on the operating parameters as claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Zeinab E EL-Arini/

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